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PATENT APPLICATION 2179

ATTORNEY DOCKET NO. 200304438-2

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IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): John A. Landry et al.	Confirmation No.:
Application No.: 09/771,866	Examiner: Chuong, Truc T.
Filing Date: 01/29/2001	Group Art Unit: 2179
Title: OPERATING SYSTEM-INDEPENDENT COMPUTING SYSTEM USER FEEDBACK MECHANISM	

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Commissioner For Patents
PO Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL OF APPEAL BRIEF

Sir:

Transmitted herewith is the Appeal Brief in this application with respect to the Notice of Appeal filed on __07/28/2005__ .

The fee for filing this Appeal Brief is (37 CFR 1.17(c)) $500.00.

(complete (a) or (b) as applicable)

The proceedings herein are for a patent application and the provisions of 37 CFR 1.136(a) apply.

( ) (a) Applicant petitions for an extension of time under 37 CFR 1.136 (fees: 37 CFR 1.17(a)-(d) for the total number of months checked below:

( ) one month $120.00
( ) two months $450.00
( ) three months $1020.00
( ) four months $1590.00

( ) The extension fee has already been filled in this application.

(X) (b) Applicant believes that no extension of time is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

Please charge to Deposit Account **08-2025** the sum of __$500.00__ . At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 08-2025 pursuant to 37 CFR 1.25. Additionally please charge any fees to Deposit Account 08-2025 under 37 CFR 1.16 through 1.21 inclusive, and any other sections in Title 37 of the Code of Federal Regulations that may regulate fees. A duplicate copy of this sheet is enclosed.

(X) I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, Alexandria, VA 22313-1450. Date of Deposit: __09/28/2005__

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Rev 12/04 (Aplbrief)

Respectfully submitted,
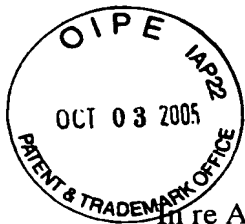
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: §	
John A. Landry, et al. §	Group Art Unit: 2179
§	
Serial No.: 09/771,866 §	
§	Examiner: Chuong, Truc T.
Filed: January 29, 2001 §	
§	
For: OPERATING SYSTEM- §	Atty Docket: 200304438-2
INDEPENDENT COMPUTING §	NUHP:0175-1/FLE
SYSTEM USER FEEDBACK §	
MECHANISM §	

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Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

APPEAL BRIEF PURSUANT TO 37 C.F.R. §§ 41.31 AND 41.37

This Appeal Brief is being filed in furtherance of the Notice of Appeal mailed on July 25, 2005, and received by the Patent Office on July 28, 2005.

The Commissioner is authorized to charge the requisite fee of $500.00, and any additional fees which may be necessary to advance prosecution of the present application, to Account No. 08-0892, Order No. 200304438-2/FLE/MAN (NUHP:0175-1).

1

1.   REAL PARTY IN INTEREST

The real party in interest is Hewlett-Packard Development Company, LP (hereinafter "HPDC"), the assignee of record in this application.

2.   RELATED APPEALS AND INTERFERENCES

Appellants are unaware of any other appeals or interferences related to this Appeal. The undersigned is Appellants' legal representative in this Appeal. HPDC, the Assignee of the above-referenced application, as evidenced by the documents mentioned above, will be directly affected by the Board's decision in the pending appeal.

3.   STATUS OF CLAIMS

Claims 1-27 are currently pending and under final rejection and, thus, are the subject of this appeal.

4.   STATUS OF AMENDMENTS

Appellants have not submitted any amendments subsequent to the Final Office Action mailed on March 24, 2005.

5.   SUMMARY OF CLAIMED SUBJECT MATTER

The present application (Pub. No. U.S. 2001/0007140 A1, hereinafter "Pub. '140") is directed to providing an operating system-independent user feedback mechanism for a *computer system*. Pub. '140, paragraph [0003]. As described in the background section of the present application, in a computer system, the operating system and system monitor may be unavailable during certain critical times, such as initialization/power-up or operation in low power mode. *See* Pub. '140, paragraphs [0005] – [0006]. To address these shortcomings of

prior systems, the disclosed computer system provides a *separate* user feedback mechanism to monitor a plurality of operating conditions *of the computer system* and to alert users to the plurality of operating conditions independently of *an operating system of the computer system*. *See* Pub. '140, paragraph [0008]. The feedback mechanism, including the display panel, is operating system-independent and completely separate from the system monitor. *See* Pub. '140, paragraph [0008]. The user feedback mechanism includes a mini display, which is separate from the system monitor, to display operating condition messages, even when the computer system is off. *See* Pub. '140, paragraphs [0008], [0019] and [0020].

Further, the presently recited user feedback mechanism includes a number of hardware and software elements which allow the user feedback mechanism to monitor operating conditions (including fault conditions) of the computer system and to alert a user to the operating conditions independently of the operating system. *See* Pub. '140, paragraph [0008]. The feedback mechanism includes an O/S interface, a BIOS interface and an ACPI interface, which allow operating system independent functionality. Pub. '140, paragraphs [0008] and [0018].

With regard to the specific aspects of the invention set forth in independent claim 1, discussions of the recited features of claim 1 can be found at least in the locations in the specification and drawings cited below. By way of example, an embodiment in accordance with the present invention relates to a computing system (e.g., CS and CH), comprising an operating system (e.g., 100). *See e.g.*, Pub., '140, Figs. 1-2 and paragraphs [0018] – [0019]. The computing system further comprises a main processor (e.g., 216) to run the operating system. *See e.g.*, Pub., '140, Fig. 2 and paragraph [0019]. The computing system further comprises a system monitor (e.g., 220) coupled to the main processor. *See e.g.*, Pub., '140,

3

Fig. 2 and paragraphs [0019] - [0020]. The computing system further comprises a user

feedback mechanism (e.g., 200) comprising an operating system interface (e.g., 110) coupled

to the operating system, a basic input output system (BIOS) interface (e.g., 112) coupled to a

BIOS (e.g., 102) of the computing system and an advanced configuration and power interface

(ACPI) interface (e.g., 114) coupled to ACPI logic (e.g., 210) of the computing system. *See*

e.g., Pub., '140, Figs. 1-2 and paragraphs [0018] – [0020]. Further, the user feedback

mechanism is configured to monitor a plurality of operating conditions of the computing

system and to alert a user of the computing system to the plurality of operating conditions.

See e.g., Pub. '140, paragraphs [0008], [0019], [0034], [0035] and [0036]; *see also* Pub.

'140, Figs. 3A-3B and paragraphs [0021] – [0023] (describing an exemplary operating

system-independent operating condition feedback process using the user feedback

mechanism). The user feedback mechanism also comprises a display panel (e.g., 204) to

display the plurality of operating condition messages independently of the operating system.

See e.g., Pub., '140, Fig. 2 and paragraphs [0008], [0019], [0034], [0035] and [0036]; *see*

also Pub. '140, Figs. 3A-3B and paragraphs [0021] – [0023] (describing an exemplary

operating system-independent operating condition feedback process using the user feedback

mechanism).

With regard to the specific aspects of the invention set forth in independent claim 12,

discussions of the recited features of claim 12 can be found at least in the locations in the

specification and drawings cited below. By way of example, an embodiment in accordance

with the present invention relates to a method of providing operating condition user feedback

for a computing system (e.g., CS and CH) having a system monitor (e.g., 220). *See e.g.*, Pub.

'140, Figs. 1-2 and paragraphs [0018] – [0020]. The method comprises the step of

monitoring an operating condition (e.g., 302 – 318) of the computing system. *See e.g.*, Pub.,

'140, Figs. 3A-3B and paragraphs [0008] and [0021] – [0023]. The method further comprises

the step of displaying an operating condition message (e.g., 324) corresponding to the

operating condition on a display panel (e.g., 204) of a user feedback mechanism (e.g., 200) of

the computing system to alert a user to the operating condition independently of an operating

system (e.g., 100) of the computing system. *See e.g.*, Pub., '140, Figs. 3A-3B and paragraphs

[0008] and [0021] – [0023]. Further, the display panel (e.g., 204) is not part of the system

monitor (e.g., 220). *See e.g.*, Pub., '140, Fig. 2 and paragraphs [0008], [0019] and [0020].

Still further, the user feedback mechanism comprises an operating system interface (e.g., 110)

coupled to the operating system, a basic input output system (BIOS) interface (e.g., 112)

coupled to a BIOS (e.g., 102) of the computing system and an advanced_configuration and

power interface (ACPI) interface (e.g., 114) coupled to ACPI logic (e.g., 210) of the

computing system. *See e.g.*, Pub., '140, Figs. 1-2 and paragraphs [0018] – [0020].

With regard to the specific aspects of the invention set forth in independent claim 21,

discussions of the recited features of claim 21 can be found at least in the locations in the

specification and drawings cited below. By way of example, an embodiment in accordance

with the present invention relates to a computing system (e.g., CS and CH) adapted for

operating condition user feedback. *See e.g.*, Pub. '140, Figs. 1-2 and paragraphs [0018] –

[0020]. The computing system comprises an operating system (e.g., 100). *See e.g.*, Pub.,

'140, Figs. 1-2 and paragraphs [0018] – [0019]. The computing system further comprises a

system monitor (e.g., 220). *See e.g.*, Pub. '140, Fig. 2 and paragraph [0020]. The computing

system further comprises means for monitoring a plurality of operating conditions (e.g., 200)

of the computing system. *See e.g.*, Pub., '140, Figs. 1-2 and paragraphs [0018] – [0020].

The computing system further comprises means for alerting a user of the computing system to

the plurality of operating conditions (e.g., 204) independently of the operating system, wherein

means for monitoring and means for alerting do not comprise the system monitor. *See e.g.,* Pub., '140, Figs. 1-2 and paragraphs [0008] and [0018] – [0020]. Further means for monitoring comprises an operating system interface (e.g., 110) coupled to the operating system, a basic input output system (BIOS) interface (e.g., 112) coupled to a BIOS (e.g., 102) of the computing system and an advanced_configuration and power interface (ACPI) interface (e.g., 114) coupled to ACPI logic (e.g., 210) of the computing system. *See e.g.,* Pub., '140, Figs. 1-2 and paragraphs [0018] – [0020].

6.   GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

First Ground of Rejection for Review on Appeal:

Appellants respectfully urge the Board to review and reverse the Examiner's first ground of rejection in which the Examiner rejected claims 1 and 3-27 under 35 U.S.C. § 102(e) as being anticipated by Ewing et al. (U.S. Pat. No. 5,949,974).

Second Ground of Rejection for Review on Appeal:

Appellants respectfully urge the Board to review and reverse the Examiner's second ground of rejection in which the Examiner rejected claim 2 under 35 U.S.C. § 103(a) as being unpatentable over Ewing et al. (U.S. Pat. No. 5,949,974) in view of Hawkins et al. (U.S. Pat. No. 6,304,244).

7.   ARGUMENT

As discussed in detail below, the Examiner has improperly rejected the pending claims. Further, the Examiner has misapplied long-standing and binding legal precedents and principles in rejecting the claims under Sections 102 and 103. Accordingly, Appellants

respectfully request full and favorable consideration by the Board, as Appellants strongly believe that claims 1-27 are currently in condition for allowance.

A.   First Ground of Rejection:

The Examiner rejected claims 1 and 3-27 under 35 U.S.C. § 102(e) as being anticipated by Ewing et al. (U.S. Pat. No. 5,949,974). Based on the similarity of the recited subject matter and the Examiner's rejections, each of the independent claims will be discussed together below. Appellants respectfully traverse this rejection.

1.   Judicial precedent has clearly established a legal standard for a prima facie anticipation rejection.

Anticipation under Section 102 can be found only if a single reference shows exactly what is claimed. *Titanium Metals Corp. v. Banner*, 227 U.S.P.Q. 773 (Fed. Cir. 1985). Thus, for a prior art reference to anticipate under Section 102, every element of the claimed invention must be identically shown in a single reference. *In re Bond*, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). Moreover, the prior art reference also must show the *identical* invention *"in as complete detail as contained in the ... claim"* to support a *prima facie* case of anticipation. *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q. 2d 1913, 1920 (Fed. Cir. 1989) (emphasis added). Accordingly, Appellants need only point to a single element not found in the cited reference to demonstrate that the cited reference fails to anticipate the claimed subject matter.

2.   The Examiner's rejection of independent claims 1, 12 and 21 is improper because the rejection fails to establish a prima facie case of anticipation.

Independent claim 1 recites:

1. A computing system, comprising:
an operating system;
main processor to run the operating system;
a system monitor coupled to the main processor; and
a user feedback mechanism comprising an operating
system interface coupled to the operating
system, a basic input output system (BIOS)
interface coupled to a BIOS of the computing
system and an advanced configuration and
power interface (ACPI) interface coupled to
ACPI logic of the computing system, wherein
the user feedback mechanism is configured to
monitor a plurality of operating conditions of the
computing system and to alert a user of the
computing system to the plurality of operating
conditions, wherein the user feedback
mechanism comprises a display panel to display
the plurality of operating condition messages
independently of the operating system.

Independent claim 12 recites:

12. A method of providing operating condition user
feedback for a computing system having a system monitor,
comprising the steps of:
monitoring an operating condition of the computing
system; and
displaying an operating condition message
corresponding to the operating condition on a
display panel of a user feedback mechanism of
the computing system to alert a user to the
operating condition independently of an
operating system of the computing system,
wherein the display panel is not part of the
system monitor, and wherein the user feedback
mechanism comprises an operating system
interface coupled to the operating system, a
basic input output system (BIOS) interface
coupled to a BIOS of the computing system and
an advanced_configuration and power interface
(ACPI) interface coupled to ACPI logic of the
computing system.

Independent claim 21 recites:

8

21.   A computing system adapted for operating condition
user feedback, comprising:
    an operating system;
    a system monitor;
    means for monitoring a plurality of operating conditions
        of the computing system; and
    means for alerting a user of the computing system to the
        plurality of operating conditions independently
        of the operating system, wherein means for
        monitoring and means for alerting do not
        comprise the system monitor, and wherein
        means for monitoring comprises an operating
        system interface coupled to the operating
        system, a basic input output system (BIOS)
        interface coupled to a BIOS of the computing
        system and an advanced configuration and
        power interface (ACPI) interface coupled to
        ACPI logic of the computing system.

In rejecting independent claims 1, 12 and 21, the Examiner asserted that the Ewing

reference discloses all of the recited features of the claims. *See* Official Action mailed March

24, 2005. Appellants respectfully traverse this assertion.

With regard to the independent claims, the Examiner stated:

> As to claims 1 and 21, Ewing teaches a computing
> system, comprising:
> an operating system (SNMP network management
> running IBM NETVIEW or HP OPENVIEW, e.g., col. 5 lines
> 33-35);
> main processor to run the operating system (there must
> be the Operating System to operate the system SNMP network
> management, e.g., col. 5 lines 34-35);
> a system monitor coupled to the main processor (user
> interfaces, e.g., col. 8 lines 62-65); and
> a user feedback mechanism comprising an operating
> system interface coupled to the operating system, a basic input
> output system (BIOS) interface coupled to a BIOS of the
> computing system (the network manager using the monitoring
> software to monitor remote agents, e.g., col. 7 lines 30-50, and
> Fig. 1) and an advanced configuration and power interface
> (ACPI) interface coupled to ACPI logic of the computing
> system a power manager, e.g., col. 5 lines 44-50, col. 9 lines 4-
> 10, and Fig. 1), wherein the user feedback mechanism is

9

configured to monitor a plurality of operating conditions of the
computing system and to alert a user of the computing system
to the plurality of operating conditions (IBM NETVIEW or HP
OPENVIEW, e.g., col. 5 lines 33-35, and col. 7 lines 30-56),
wherein the user feedback mechanism comprises a display panel
to display the plurality of operating condition messages
independently of the operating system (there are different
operating systems for each SNMP agent and SNMP manger;
therefore, the plurality of operating conditions of others
throughout the network 10 as shown in Fig. 1 can be sent and
seen from the different operating system/computer without
using the OS of the agent having problems, e.g., col. 4 liens 21-
40, col. 7 lines 30-56, and Fig. 1).

With regard to independent claim 12, the Examiner stated:

As to claims 12-14, they are method claims of system
claims 1, 11 and 10. Note the rejections of claims 1, 11-10,
above respectively.

Further, in the Advisory Action mailed on June 21, 2005, the Examiner stated:

The request for consideration does NOT place the
application in condition for allowance because: Ewing et al.
(U.S. Patent No. 5,949,974) does not only show the advanced
configuration and power interface (ACPI) as claimed by the
applicant but also teaches that SNMP defines a client/server
relationship. The client program, network manager 20, makes
virtual connections to the server program, the SNMP agent 22
and 24 on a remote network device. The database controlled by
the SNMP agent is the management information base (MIB).
The MIB is a standard set of statistical and control values that
provides information about the attributes of devices attached to
the network. SNMP allows for the extension of these standard
values with values that are specific to a particular SNMP agent
through the use of private MIBs. The use of private MIB
variables allows SNMP agents to be modified for a variety of
devices, e.g., bridges, hubs, routers and CSU/DSUs, etc.
SNMP operates by exchanging network information through
protocol data unit (PDU) messages. PDUs carry variables that
have both titles and values. There are five types of PDUs that
SNMP uses to monitor a network, two for reading terminal
data, two for setting terminal data, and one, the trap, monitoring
network events. Every SNMP message consists of a variable,
and every variable consists of a variable title, the integer, string
data type of the variable, whether the variable is read-only or
read-write, and the value of the variable. The SNMP manager
20 collects information via MIBs about routers, hubs, bridges,

concentrators, servers, switches and other inter-networking
devices. When a problem at a remote node is detected, the
corresponding SNMP agent issues an alarm that identifies the
problem by type and node address (e.g., col. 7 lines 30-55).

Appellants respectfully traverse the Examiner's assertions made in the Final Office Action,

as well as the advisory action, for a number of reasons. First, the Examiner asserted that one skilled

in the art would correlate the presently recited "computing system" with the SNMP *network* 10

disclosed by Ewing. However, Appellants respectfully traverse this assertion and submit that those

skilled in the art would *not* analogize a computer network with a computing system since those

skilled in the art would appreciate that a computer network includes a number of computing

systems (nodes). As described further below, the Ewing reference is related to power management

between various nodes (computing systems) in a computer network and *not* to mechanisms and

methods of providing operating condition user feedback *within* a computing system. Second,

while the Examiner's correlation of the SNMP network 10 of Ewing creates a number of

points of error, as will be discussed further below, even if such a correlation could be

reasonably asserted, the Ewing reference does not disclose or suggest a user feedback

mechanism comprising the elements recited in the present claims which allow a user to

monitor operating conditions of the computer system on a display panel, independently of the

operating system. Specifically, the Ewing reference does not disclose or suggest a BIOS

interface or an ACPI interface. In fact, the Ewing reference makes absolutely no reference to

a BIOS or ACPI logic, much less a feedback mechanism comprising interfaces configured to

interact with such features.

In contrast to the recited subject matter, the Ewing reference is directed to power

management in a network, and more particularly, to a system for reading the status and for

controlling the power supplies of appliances connected to a computer network. *See e.g.*, Col.

11

1, lines 8-10; col. 4, lines 13-15. The Ewing reference discloses a simple network

management protocol (SNMP) network 10 comprising an SNMP manager 20 in

communication with a number of SNMP agents 22 and 24 located at remote nodes (point-of-

presence (POP) nodes). Col. 5, lines 28-34. The SNMP manager is provided to manage the

SNMP network 10. Col. 5, lines 31-33. The SNMP manager 20 may comprise a commercial

product such as IBM NETVIEW/6000 or HP OPENVIEW. Col. 5, lines 34-36. When a

problem at a remote node is detected, the corresponding SNMP agent issues an alarm that

identifies the problem by type and node address. Col. 7, lines 52-54. To be clear, the Ewing

reference discloses a computer *network* and power management between various nodes (computing

systems) in a computer network.

With regard to the first point of error, the Examiner correlated the presently recited

"computing system" with the SNMP *network* 10 disclosed by Ewing. However, Appellants

respectfully traverse this assertion and submit that those skilled in the art would *not* analogize a

computer network with a computing system, because those skilled in the art would appreciate that

a computer network is *not* a single computing system, but rather a computer network includes a

number of computing systems (nodes) linked together. *See e.g.,*

http://www.webopedia.com/TERM/n/network.html. The Examiner's correlation of a computer

network with the presently recited *computing system* is inconsistent with the common usage of the

terms, as appreciated by those skilled in the art. Words of the claims must be give their plain

meaning unless applicant has provided a clear definition in the specification. *In re Zletz*, 893

F.2d 319, 321, 13 U.S.P.Q.2d 1320, 1322 (Fed. Cir. 1989); M.P.E.P. § 2111.01. "Words in

patent claims are given their ordinary meaning in the usage of the field of the invention, unless

the text of the patent makes clear that a word was used with a special meaning." *In re Sneed*,

710 F.2d 1544, 218 U.S.P.QQ. 385 (Fed. Cir. 1983). Appellants respectfully submit that the

Examiner's assertion that a *network* would be interpreted as a computing system is inconsistent with the ordinary meaning of the terms.

The Examiner's overall assertion that a network and a computing system are the same creates a number of errors related to various features of each of the recited claims. Generally, the Examiner's correlation of the remote computers (SNMP agents 22 and 24) throughout the SNMP network 10 of Ewing with the recited "feedback mechanism," is unreasonable and unsupportable. As discussed further below, it is clear that the SNMP agents 22 and 24 are *not* part of the same computing system, but instead are individual computing systems linked together to form the SNMP network 10. Further, the Examiner's correlation of the SNMP network manager 20 running IBM NETVIEW or HP OPENVIEW (*see* Final Office Action, page 2, section 4) with the presently recited "operating system" is also unreasonable and unsupportable. IBM NETVIEW and HP OPENVIEW are *network protocols* not operating systems. As will be appreciated by those skilled in the art, a *protocol* defines a common set of rules and signals that computers on a network use to communicate. *See e.g.*, http://www.webopedia.com/TERM/P/protocol.html. In contrast, an *operating system* is a program that runs on a single computing system to perform basic tasks and run other system programs. *See e.g.*, http://www.webopedia.com/TERM/o/operating_system.html. As such, a network protocol is not the same as an operating system.

To these points, and with specific regard to claims 1 and 21, claim 1 recites, *inter alia*, "a computing system" comprising "an operating system," and "a user feedback mechanism...wherein the user feedback mechanism is configured to monitor a plurality of operating conditions of the computing system and to alert a user of the computing system to the plurality of operating conditions, wherein the user feedback mechanism comprises a display panel to display the plurality of operating condition messages independently of the operating system." Similarly, claim 21

13

recites, *inter alia*, "a computing system" comprising "an operating system," "means for monitoring a plurality of operating conditions of the computing system," and "means for alerting a user of the computing system to the plurality of operating conditions independently of the operating system." It is clear from the commonly understood meaning of the claim terms which are completely consistent with Appellants' usage throughout the specification, that the presently recited claim is directed to a single computer system having a single operating system. To monitor operating conditions of the computing system and to display operating condition messages independently of the operating system, the computing system also comprises a user feedback mechanism. As discussed above, each of the features recited in the Ewing reference correspond to a network of computing systems, each having a respective operating system. The computing systems (SNMP agents 22 and 24) of Ewing are linked together through the network and communicate in accordance with a common protocol. The SNMP network 10 does not comprise "an operating system." Rather, the SNMP network 10 comprises a plurality of computing systems, each having a respective operating system.

Further, none of the SNMP agents 22 and 24 of Ewing comprise a "user feedback mechanism" having each of the features recited in claim 1. Further, none of the SNMP agents 22 and 24 of Ewing comprise a "means for monitoring" or "means for alerting" having each of the features recited in claim 21. Any assertion that one SNMP agent 22 or 24 is a user feedback mechanism for another SNMP agent 22 or 24 is unreasonable in view the commonly understood meaning of the features disclose in the Ewing reference and the presently recited claim terms.

Similarly, claim 12 recites, *inter alia*, "a method of providing operating condition user feedback for a computing system" comprising "monitoring an operating condition of the computing system" and "displaying an operating condition message corresponding to the operating condition

14

on a display panel of a user feedback mechanism of the computing system to alert a user to the operating condition independently of an operating system of the computing system." As discussed above, each of the features recited in the Ewing reference correspond to a network of computing systems, each having a respective operating system. Further, none of the SNMP agents 22 and 24 of Ewing discloses a "user feedback mechanism" having each of the features recited in claim 1. Any assertion that one SNMP agent 22 or 24 is a user feedback mechanism for monitoring operating conditions and displaying operating conditions messages for another SNMP agent 22 or 24 is unreasonable in view the commonly understood meaning of the features disclosed in the Ewing reference and the presently recited claim terms.

In summary, contrary to the Examiner's position, Appellants respectfully assert that those skilled in the art would not analogize a computer network, as disclose in Ewing, with a computing system, as recited in the present claims. The Ewing reference is related to power management between various nodes (computing systems) in a computer network and not to mechanisms and methods of providing operating condition user feedback within a computing system. Those skilled in the art would appreciate that a computer network includes a number of computing systems (nodes). Thus, those skilled in the art would not correlate the SNMP network 10, the network protocol (e.g., IBM NETVIEW) and the SNPM agents 22 and 24 disclosed in Ewing, with the computing system, operating system and user feedback mechanism, respectively, as recited in each of Appellants' claims. For at least these reasons, Appellant respectfully asserts that the cited reference does not disclose every element recited in the present claims and therefore cannot possibly anticipate claims 1, 12, and 21, or those claims dependent thereon.

With regard to the second point of error, the Ewing reference does not disclose or suggest a user feedback mechanism comprising the elements recited in the present claims

15

which allow a user to monitor operating conditions of the computer system on a display panel, independently of the operating system. Specifically, the Ewing reference does not disclose or suggest a BIOS interface or an ACPI interface. In fact, the Ewing reference makes absolutely no reference to a BIOS or ACPI logic, much less a feedback mechanism comprising interfaces configured to interact with such features. This point is understandable in view of the first point of error discussed above. That is, the BIOS, ACPI logic, BIOS interface and ACPI interface recited in the present claims are all features of the recited computing system. Because the Ewing reference is directed to power management of various computing systems (SNMP agents 22 and 24) of a network, there is no discussion of particular features which may exist in each of the agents 22 and 24. As such, Ewing does not disclose or suggest a BIOS, ACPI logic, BIOS interface or ACPI interface as recited in each of the present claims.

In the Advisory Action, it appears that the Examiner asserted that the power manager 28 and SNMP manager 20 of the Ewing reference are analogous to the presently recited ACPI interface and the BIOS interface, respectively. In addition to the discussion above, Appellants further traverse these characterizations. As described in the Ewing reference, the power manager 28 is connected to independently control each of the intelligent power modules 30-36 to be able to sense the power-on and load status of inter-networking devices 38-44 and to switch power on and off to each of the inter-networking devices 38-44. Col. 5, lines 44-50. The power manager 28 is *not* an interface, at all, but rather, is a controller. Indeed, Appellants maintain that the Ewing reference does not disclose anything that could be reasonably correlated with an advanced configuration and power interface (ACPI) coupled to ACPI logic, as recited in the present claims. Further, Appellants assert that the SNMP manager 20 is clearly a controller, as well. *See e.g.*, col. 7, lines 30-55. There is nothing in the Ewing reference to suggest that the SNMP manager 20 of

16

Ewing comprises a BIOS interface couple to the BIOS of a computer system, as recited in the present claims.

If the Examiner is relying on a theory of inherency, Appellants respectfully remind the Board that the extrinsic evidence must make clear that the missing descriptive matter is *necessarily* present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. *In re Robertson*, 169 F.3d 743, 49 U.S.P.Q.2d 1949 (Fed. Cir. 1999) (Emphasis Added). The mere fact that a certain thing *may* result from a given set of circumstances is not sufficient. *Id.* In relying upon the theory of inherency, the Examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic *necessarily* flows from the teachings of the applied prior art. *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis in original).

In summary, and contrary to the Examiner's assertion, Appellants respectfully submit that the Ewing reference does not disclose or suggest a user feedback mechanism comprising a BIOS interface coupled to the BIOS of a computer system or an ACPI interface coupled to ACPI logic of a computer system, as recited in each of the independent claims. Because independent claims 1, 12 and 21 recite subject matter not disclosed in the Ewing reference, the Ewing reference cannot possibly anticipate the present claims.

For at least the reasons discussed above, Appellants respectfully assert that the Ewing reference does not disclose every element recited in the present claims and therefore cannot possibly anticipate the recited subject matter. Therefore, Appellants respectfully request that the

Board find claims 1 and 3-27 are patentable over the prior art of record and reverse the Examiner's rejection of those claims.

B.   **Second Ground of Rejection:**

The Examiner rejected claim 2 under 35 U.S.C. § 103(a) as being unpatentable over Ewing et al. (U.S. Pat. No. 5,949,974) in view of Hawkins et al. (U.S. Pat. No. 6,304,244). Appellants respectfully traverse this rejection.

The burden of establishing a *prima facie* case of obviousness falls on the Examiner. *Ex parte Wolters and Kuypers*, 214 U.S.P.Q. 735 (B.P.A.I. 1979). Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention absent some teaching or suggestion supporting the combination. *ACS Hospital Systems, Inc. v. Montefiore Hospital*, 732 F.2d 1572, 1577, 221 U.S.P.Q. 929, 933 (Fed. Cir. 1984). Accordingly, to establish a *prima facie* case, the Examiner must not only show that the combination includes all of the claimed elements, but also a convincing line of reason as to why one of ordinary skill in the art would have found the claimed invention to have been obvious in light of the teachings of the references. *Ex parte Clapp*, 227 U.S.P.Q. 972 (B.P.A.I. 1985). When prior art references require a selected combination to render obvious a subsequent invention, there must be some reason for the combination other than the hindsight gained from the invention itself, i.e., something in the prior art as a whole must suggest the desirability, and thus the obviousness, of making the combination. *Uniroyal Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 5 U.S.P.Q.2d 1434 (Fed. Cir. 1988).

Claim 2 is dependent on claim 1 which was rejected under 35 U.S.C. § 102. For at least the reasons discussed above, Appellants respectfully submit that the cited references,
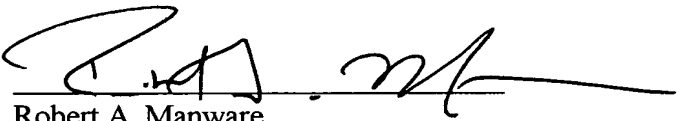
taken alone or together, fail to disclose all of the elements recited in the present claims. The Examiner only cited the Hawkins reference as disclosing a liquid crystal display panel. However, there is no suggestion of how the LCD display panel might be used in the Ewing system in a manner that would lead to the invention as recited in claim 1. Appellants further note that the Hawkins reference does not cure the deficiencies of the Ewing reference as discussed above with regard to the independent claims. Accordingly, none of the cited references taken alone or together, can possibly render the recited subject matter obvious. In view of these remarks, Appellants respectfully request that the Board find claim 2 patentable over the prior art of record and reverse the Examiner's rejection of claim 2 for the reasons set forth above.

Conclusion

Appellants respectfully submit that all pending claims are in condition for allowance. However, if the Examiner or Board wishes to resolve any other issues by way of a telephone conference, the Examiner or Board is kindly invited to contact the undersigned attorney at the telephone number indicated below.

Respectfully submitted,

Date: September 28, 2005

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8. **CLAIMS APPENDIX**

1. A computing system, comprising:

an operating system;

main processor to run the operating system;

a system monitor coupled to the main processor; and

a user feedback mechanism comprising an operating system interface coupled to the

operating system, a basic input output system (BIOS) interface coupled to a

BIOS of the computing system and an advanced configuration and power

interface (ACPI) interface coupled to ACPI logic of the computing system,

wherein the user feedback mechanism is configured to monitor a plurality of

operating conditions of the computing system and to alert a user of the

computing system to the plurality of operating conditions, wherein the user

feedback mechanism comprises a display panel to display the plurality of

operating condition messages independently of the operating system.

2. The computing system of claim 1, the display panel comprising a liquid crystal

display (LCD) panel.

3. The computing system of claim 1, the user feedback mechanism further

comprising:

a controller coupled to the display panel to monitor a plurality of operating condition

signals corresponding to the plurality of operating conditions and to

communicate the plurality of operating conditions to the display panel

independently of the operating system.

4. The computing system of claim 3, the user feedback mechanism further comprising:

a display panel interface driver to pass the plurality of operating conditions to the controller.

5. The computing system of claim 1, the user feedback mechanism further comprising:

a display panel interface coupled to the display panel for an application to communicate with the display panel.

6. The computing system of claim 1, wherein the display panel displays a plurality of instructions to the user for the user to cure the plurality of operating conditions.

7. The computing system of claim 1, wherein the user feedback mechanism monitors an operating condition of the plurality of operating conditions after system initialization by processing data from the operating system into a more meaningful form.

8. The computing system of claim 1, wherein the BIOS interface is configured to monitor the plurality of operating conditions during system initialization of the computing system by bypassing the operating system.

9. The computing system of claim 8, wherein the plurality of operating conditions comprises a plurality of primary device states for a plurality of primary devices of the computing system.

10.	The computing system of claim 1, the user feedback mechanism comprising:

a safety button configured to signal a power supply to power off the computing system

if the computing system is not powered off by the operating system.

11.	The computing system of claim 1, the user feedback mechanism comprising:

a plurality of fault tolerant client software components to monitor the plurality of

operating conditions after system initialization of the computing system.

12.	A method of providing operating condition user feedback for a computing

system having a system monitor, comprising the steps of:

monitoring an operating condition of the computing system; and

displaying an operating condition message corresponding to the operating condition on

a display panel of a user feedback mechanism of the computing system to alert

a user to the operating condition independently of an operating system of the

computing system, wherein the display panel is not part of the system monitor,

and wherein the user feedback mechanism comprises an operating system

interface coupled to the operating system, a basic input output system (BIOS)

interface coupled to a BIOS of the computing system and an advanced

configuration and power interface (ACPI) interface coupled to ACPI logic of

the computing system.

13.	The method of claim 12, further comprising the step of:

clearing the operating condition message from the display panel if the operating

condition is cured.

14.   The method of claim 12, further comprising the step of:

signaling a power supply of the computing system to power off the computer system

independently of the operating system.

15.   The method of claim 12, the monitoring step comprising the step of:

monitoring a connection state of the computing system to the Internet.

16.   The method of claim 12, the monitoring step comprising the step of:

monitoring a state of a peripheral device of the computing system.

17.   The method of claim 12, the monitoring step comprising the step of:

monitoring an e-mail notification message to the computing system.

18.   The method of claim 12, the monitoring step comprising the step of:

monitoring atomic time from a network server coupled to the computing system.

19.   The method of claim 12, wherein the monitoring step is performed by an

application after system initialization of the computing system.

20.   The method of claim 12, wherein the monitoring step is performed by system

BIOS during system initialization of the computing system.

21.   A computing system adapted for operating condition user feedback,

comprising:

an operating system;

a system monitor;

means for monitoring a plurality of operating conditions of the computing system; and

means for alerting a user of the computing system to the plurality of operating

conditions independently of the operating system, wherein means for

monitoring and means for alerting do not comprise the system monitor, and

wherein means for monitoring comprises an operating system interface coupled

to the operating system, a basic input output system (BIOS) interface coupled

to a BIOS of the computing system and an advanced configuration and power

interface (ACPI) interface coupled to ACPI logic of the computing system.

22.   The computing system of claim 21, the means for alerting comprising:

a means for displaying a plurality of operating condition messages corresponding to the

plurality of operating conditions.

23.   The computing system of claim 22, further comprising:

a means for clearing the plurality of displayed operating condition messages if the

plurality of operating conditions have been cured.

24.   The computing system of claim 21, further comprising:

a power supply; and a means for signaling the power supply to power off the

computing system independently of the operating system.

25.   The computing system of claim 21, wherein the plurality of operating

conditions are readable by an application.

26.   The computing system of claim 21, wherein the means for monitoring comprises an application after system initialization of the computing system.

27.   The computing system of claim 21, wherein the means for monitoring comprises system BIOS during system initialization of the computer system.

9.   **<u>EVIDENCE APPENDIX</u>**

No additional evidence for submission under 1.130, 1.131 or 1.132 is presently provided.

10. **RELATED PROCEEDINGS APPENDIX**

Appellants are unaware of any other appeals or interferences related to this Appeal.